

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOSEPH AUGUST MARSALA,  
Plaintiff,  
v.  
DIAZ, *et al.*,  
Defendants.

Case No. 1:22-cv-00843-DAD-BAM (PC)  
Appeal No. 22-16260  
ORDER REGARDING *IN FORMA PAUPERIS*  
STATUS ON APPEAL

Plaintiff Joseph August Marsala (“Plaintiff”) is a state prisoner who proceeded *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On July 20, 2022, the undersigned issued findings and recommendations, recommending denial of Plaintiff’s motion for a preliminary injunction and for a temporary restraining order. (ECF No. 11.) Plaintiff filed objections on August 4, 2022, (ECF No. 12), and a new motion seeking injunctive relief on August 5, 2022, (ECF No. 13). The assigned District Judge reviewed Plaintiff’s objections and both motions for injunctive relief together, and adopted the findings and recommendations on August 9, 2022. (ECF No. 14.)

On August 18, 2022, Plaintiff filed a notice of interlocutory appeal, which was processed to the Ninth Circuit Court of Appeals. (ECF Nos. 16, 17.)

On August 22, 2022, the Ninth Circuit Court of Appeals referred the matter back to this Court for the limited purpose of determining whether *in forma pauperis* status should continue for

1 the appeal. (ECF No. 19), 28 U.S.C. § 1915(a)(3). The Court finds that this appeal is not taken in  
2 bad faith and is not frivolous. Accordingly, *in forma pauperis* status should not be revoked and  
3 should continue on appeal.

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5 IT IS SO ORDERED.

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Dated: August 24, 2022

/s/ Barbara A. McAuliffe

7 UNITED STATES MAGISTRATE JUDGE

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